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**FAILURE TO MAKE PROGRESS TOWARD CLOSURE, DELLAR TRUST PROPERTY,
SACRAMENTO COUNTY**

The Central Valley Water Board issued Cleanup and Abatement Order (CAO) R5-2008-0705 to the City of Sacramento and the Sylvia Dellar Survivor's Trust ("Dischargers"). The CAO requires that the Dellar Landfill be closed by 30 October 2010 and the Final Closure Certification Report be submitted by 15 December 2010. To date, the closure construction has not been completed and the final closure report has not been submitted, both of which are violations of the CAO and subject the Dischargers to civil liability.

In early 2011, the Dischargers requested an extension to the CAO in anticipation of receiving grant funding for a portion of the costs to close the landfill. Water Board staff's letter of 25 May 2011 states that *"staff cannot recommend another extension to the CAO unless and until the Dischargers show that they will make every effort to proceed with as much of the construction as possible this year...the tasks performed must include submitting the Final Closure Plan and must show that the Dischargers are spending approximately \$500,000 to \$750,000..."*

On 22 July 2011, the Dischargers submitted the *Final Closure and Post-Closure Maintenance Plan* (Plan). This document states that the following construction tasks would be completed during the fall of 2011:

- Abandoning the on-site agricultural well;
- Constructing the detention basin pipe run along A Street;
- Conducting work around the on-site radio tower;
- Resetting power poles at new grade;
- Conducting construction quality assurance (CQA) observations; and
- Submitting a CQA Interim Report.

In a letter dated 7 September 2011, staff approved the Plan and the proposed time schedule to complete the tasks listed above during the 2011 construction season.

However, the only task completed was the submission of a document titled "CQA Interim Report" dated 21 October 2011. Unfortunately, this report does not contain CQA data generated from construction work, and instead only discussed contract complexities and the intent of the Dellar Trust to complete some elements of the closure construction during fall 2011. As such, the report does not meet the intent of the approved Plan, and therefore the Dischargers have not submitted an Interim CQA Plan. In summary, the Dischargers have not completed any of the tasks which they committed to complete in 2011.

In a letter dated 1 November 2011, the City of Sacramento provided staff with a status report as required by the CAO. This report states that (a) the City received oral confirmation that CalRecycle will recommend awarding a \$720,000 grant to the City of Sacramento, (b) the Dellar Trust has not finalized a contract for construction services, and (c) that work which was to be completed in the fall 2011 has not been performed.

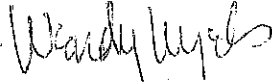
Furthermore, in a letter dated 17 November 2011, the Dellar Trust submitted a status report indicating that an impasse had been reached with the contractor chosen to perform construction services. However, the Dellar Trust was able to reach an agreement with a second contractor, and a construction schedule and work plan would be provided to staff the next week. However, this document was not received.

Water Board staff remain extremely concerned about the lack of progress toward closing the Dellar Landfill. Although the Dischargers agreed to complete certain tasks in the fall of 2011, it appears that no construction-related actions have taken place at the landfill. The Dischargers remain in violation CAO R5-2008-0705, and have not performed the good-faith work identified in staff's 25 May 2011 letter.

Based on the Discharger's non-compliance with CAO R5-2008-0705 and the inactivity during the fall 2011 construction season, staff is prepared to recommend to the Board that an Administrative Civil Liability (ACL) penalty be assessed to the Dischargers. In accordance with California Water Code Sections 13268 and 13350, penalties may be assessed in the amount of \$1,000 per day of violation, or \$5,000 per day of violation, depending on the violation.

By **25 January 2012**, the Dischargers shall submit a status report describing the closure construction work at the Dellar Landfill accomplished to date, including the tasks completed during the fall 2011 construction season. The report shall include an update regarding the CalRecycle grant, and a proposed schedule such that the landfill will be closed in 2012. This report shall be a joint status report submitted by both parties.

If the Dischargers wish to meet to discuss the issue, staff is willing to do so after the status report has been submitted. Please contact me at 916-464-4835 or Todd Del Frate at 916-464-4737 if you have questions.



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